

CHAPTER 55:09:04

LEAVES OF ABSENCE

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55:09:04:02. Sick leave. Sick leave with pay shall be accrued each semimonthly pay period in equal increments to the maximum specified in SDCL 3-6C-7. An employee paid monthly shall accumulate sick leave at a rate of 9.334 hours per month. An employee who works less than full time shall accrue prorated sick leave based on the number of hours paid in the pay period.

Sick leave may be granted for ~~personal illness; pregnancy; the birth or the placement for adoption or foster care of a child, in order to bond with a child within one year of child's birth or placement; exposure to contagious diseases that would endanger the health of fellow employees; required eye and dental care; required medical examination; or inpatient or outpatient treatment in approved centers for alcohol, drug abuse, psychiatric, or counseling care~~ the illness, health care needs, or temporary care of the employee, the employee's immediate family, or a person for whom the employee is the legal guardian. An employee may use up to five days of sick leave, as bereavement leave, for the loss of an immediate family member. An employee who is on approved leave, except terminal vacation leave, and becomes injured or ill may use sick leave.

The appointing authority may, with the approval of the commissioner, require the employee to produce a doctor's statement to support a request for sick leave.

Source: 39 SDR 99, effective December 3, 2012; 44 SDR 99, effective December 11, 2017.

General Authority: SDCL 3-6C-7, 3-6C-18.

Law Implemented: SDCL 3-6C-7, 3-6C-18.

55:09:04:04.01. Paid family leave. Each permanent employee who has been employed by the state for a continuous period of six months is entitled to 24 hours of paid family leave per

week for up to eight weeks following the birth of a child of the employee or placement of a child for adoption. Paid family leave must be taken within one year following the birth of a child or the placement of a child for adoption. A permanent part-time employee will receive prorated hours. Sick or vacation leave may be used to supplement the remaining hours in the work week.

Source:

General Authority: SDCL 3-6C-7.1, 3-6C-18.

Law Implemented: SDCL 3-6C-7.1, 3-6C-18.

55:09:04:05. ~~Personal~~ Active duty military leave. An employee may use up to 40 hours of accumulated sick leave annually for ~~the following purposes:~~

- ~~—— (1) A death in the immediate family;~~
- ~~—— (2) The temporary care of members of the immediate family; and~~
- ~~—— (3) A a call to state active duty of military reserve or national guard members.~~

Source: 39 SDR 99, effective December 3, 2012.

General Authority: SDCL 3-6C-18.

Law Implemented: SDCL 3-6C-18.

55:09:04:12. Family and medical leave. Family and medical leave is available to an employee who has worked for twelve months or more and who has worked 1,250 hours or more. Up to 12 weeks of sick leave, ~~personal~~ paid family leave, vacation leave, leave without pay, or any combination of these leaves may be taken as family and medical leave. An employee may request family and medical leave for any of the following purposes:

(1) The birth of a child of the employee or the placement of a child with the employee for adoption or foster care;

(2) To bond with a child so long as the leave is taken within one year of the child's birth or placement;

(3) The need to care for the spouse, child, or parent of the employee if the spouse, child, or parent has a serious health condition;

(4) A serious health condition; or

(5) A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or another reserve component of the armed forces of the United States in support of a contingency operation. A qualifying exigency includes the attending of certain military events, arranging for alternative childcare, addressing of certain financial and legal arrangements, attending of certain counseling sessions, and attending of post-deployment reintegration briefings.

An employee who has worked for twelve months or more and who has worked 1,250 hours may also request family and medical leave to care for a spouse, son, daughter, parent, or the employee's next of kin of a covered servicemember with a serious injury or illness. A covered servicemember is anyone currently a member of the regular armed forces, a reserve component of the armed forces, or the National Guard. A serious injury or illness is an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank or rating and for which the servicemember is undergoing medical treatment, recuperation, therapy, or outpatient

treatment or is on the temporary disability retired list. An employee may also take military caregiver leave to care for a family member who sustained a qualifying injury for up to five years after the member has been discharged from military service. Up to 26 weeks of ~~personal~~ sick leave, vacation leave, leave without pay, or any combination of these leaves may be taken as family and medical leave for military caregiver leave during a single 12-month period.

The use of sick leave shall comply with SDCL 3-6C-7 and 3-6C-8. If sick leave is used for any part of the family and medical leave, the employee may be required to support the request with a statement from a medical doctor certifying the nature of the serious health condition.

Source: 39 SDR 99, effective December 3, 2012; 44 SDR 99, effective December 11, 2017.

General Authority: SDCL 3-6C-18.

Law Implemented: SDCL 3-6C-18.